Office of Chief Counsel Internal Revenue Service

memorandum

CC:LM:FSH:MAN:3:TL-N-2853-01

RLPeacock

date:

to: Richard Antoinette, Team Manager, Manhattan Appeals Attention: Mel Rosenbach, Appeals Officer

from: Area Counsel (Financial Services & Healthcare) (Area 1: Manhattan)

subject:

(through

STATUTES OF LIMITATION EXPIRE:

UIL Nos. 6501.08-00 and 6501.08-17

INTRODUCTION

This memorandum responds to Paul Steindler's request for assistance via telephone on May 1, 2001. This memorandum should not be cited as precedent. Specifically, you have asked our office to provide you with the appropriate language to use on a Form 872-P Consent to Extend the Time to Assess Tax Attributable to Items of a Partnership ("Form 872-P") with respect to

(EIN) ("

December 31, Decembe

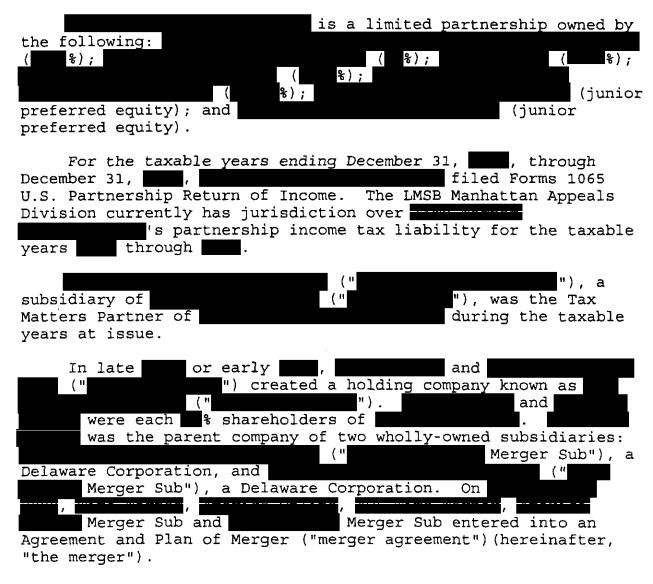
ISSUES

- 1. Which entity is the proper entity to execute a Form 872-P for the taxable years ending December 31, _____, December 31, _____, December 31, _____, December 31, _____,
- 2. What specific language should be used on the Form 872-P for for the taxable years ending December 31, December 31, December 31, and December 31, Page 21, Page 31, December 31, December

BACKGROUND

This opinion is based upon the facts set forth herein. It might change if the facts are determined to be incorrect. If the facts are determined to be incorrect, this opinion should not be relied upon.

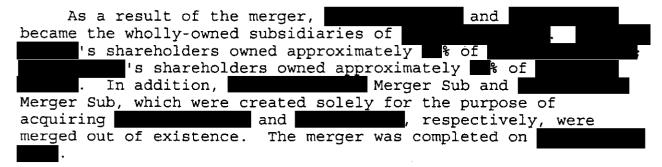
Prior to rendering this advice, our office has consulted informally with William Heard in the National Office. You should be aware that under routing procedures which have been established for opinions of this type, we have referred this memorandum to the Office of Chief Counsel for review. That review might result in modifications to the conclusions herein. We will inform you of the result of the review as soon as we hear from that office, which should be in approximately 10 days. In the meantime, the conclusions reached in this opinion should be considered to be only preliminary.



The merger agreement provided as follows:

- 2.1 The Mergers. Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with the Delaware General Corporation Law ...

 (a) Merger Sub shall be merged
 - (a) Merger Sub shall be merged with and into (the "Merger"). Shall be the surviving corporation in the Merger and shall continue its corporate existence under the laws of the State of Delaware. As a result of the Merger, shall become a wholly owned subsidiary of [].
 - Merger Sub shall be merged with and into (the "Merger"). Shall be the surviving corporation in the Merger and shall continue its corporate existence under the laws of the State of Delaware. As a result of the Merger, Shall become a wholly owned subsidiary of [Merger].



On , executed a Form 872-P captioned "through . The Form 872-P was signed by the Assistant Treasurer of . Based on this Form 872-P, the current statute of limitations expires on

At issue is which entity may execute a Form 872-P on behalf of for the taxable years through through. Also at issue is the proper language to use on a Form 872-P for

DISCUSSION

As a preliminary matter, we recommend that you pay strict attention to the rules set forth in the IRM. Specifically, IRM 8.1.1, chapter 3, provides procedures for processing consents to extend the statute of limitations on Assessment.

1. Which entity is the proper entity to execute a Form 872-P on behalf of the taxable years through ?

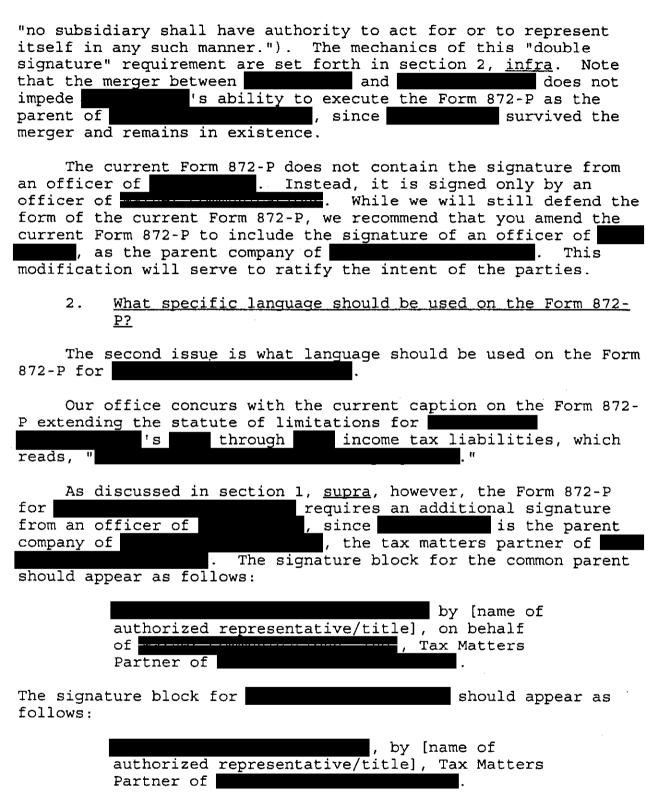
The first issue is which entity is the proper entity to execute a Form 872-P for for the taxable years ending December 31, December 31, and De

During the taxable years at issue, in the case of tax attributable to adjustment of partnership items, the unified procedures of TEFRA and I.R.C. § 6229 apply. Under I.R.C. § 6229(a), the statute of limitations on assessment of tax attributable to partnership items expires three years from the date the partnership tax return is filed, or the date the partnership tax return is due, whichever is later. I.R.C. § 6229(b), however, provides that the Secretary and the tax matters partner, or any other person authorized by the partnership, may consent in writing to an agreement to extend the statute of limitations. The Service uses the Form 872-P to memorialize such consent for partnerships.

Here, the tax matters partner for is . It is, therefore, the proper entity to extend the statute of limitations on assessment on behalf of

The representatives of authorized to execute a Form 872-P are the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer authorized to act. See Rev. Rul. 83-41, clarified and amplified by Rev. Rul. 84-165. signed the Form 872-P on behalf of and amplified by Rev. Rul. 84-165. signed the Form 872-P on behalf of authorized to execute consents to extend the period of limitations on behalf of

In addition to the signature of an officer of the signature of



The Form 872-P previously executed in contain the above language. Accordingly, we advise you to amend the Form 872-P to incorporate the recommended language.

Should you have any questions regarding this matter, please contact Robin L. Peacock at (212) 264-1595, extension 246.

This writing may contain privileged information. Any unauthorized disclosure of this writing may have an adverse effect on privileges, such as the attorney client privilege. If disclosure becomes necessary, please contact this office for our views.

ROLAND BARRAL
Area Counsel
(Financial Services and
Healthcare: Manhattan)

By:

THEODORE R. LEIGHTON
Associate Area Counsel